

REMARKS

These remarks follow the order of the outstanding office action beginning at page 2 thereof.

Priority

Applicant has noted the failure to file the certified copy of the Japanese application. Applicant will file such a certified copy as soon as received.

Claim Objections

Claim 6 has been amended in order to overcome the objection noted by the Examiner. The undersigned, however, has not removed all of limitations (b) and (c) from the claim because it is believed that they were not completely redundant. Instead, only (c) has been eliminated and (b) has been restated as shown to provide better definition of the coherent light direction.

Claim Rejections - 35 USC § 102

In response to this rejection, applicant has elected to cancel claim 1.

In claim 2, Applicant has amended the claim to specify that the light permeable culture is a light permeable microorganism colony culture. All of the references cited by the Examiner, including Horiuchi '511 related to flow cells and the detection of blood particles and the like. None of these references, taken singularly or in combination, relate to microorganism growth, especially such a sample as prepared as required by claim 2.

In the Office Action, the Examiner has asserted that Horiuchi included a culture medium. This observation is respectfully

traversed because Horiuchi simply does not have a culture of living organisms. However, the claim has now been amended to specifically state this difference between the references.

Claims 3 and 4 have been rejected as being anticipated by Cremer based upon US Patent '421. In response, Applicant has amended claims 3 and 4 to specify that the object is a transparent nonflowing cell container which contains a microorganism colony. Cremer, as noted above, is for measurement of cells such as blood and the like. Cremer is not designed for and does not disclose a nonflowing transparent cell container as now claimed. Instead, Cremer is a flow cell design as stated in the abstract and throughout the specification. With respect to claim 4, claim 4 has been amended as has claim 3 to include the transparent nonflowing cell containers which define over Cremer.

Claim 5 has been rejected under 35 USC § 103(a) as being unpatentable over Cremer in view of Hirschfeld. This claim has again been amended to define the transparent nonflowing cell container which contains the microorganism colony. The claim, therefore, defines over the prior art of record.

Claim 6 was rejected over Cremer and the Examiner's observation that stepper motors were exceeding well-known in the art and utilized for rotating an object with a constant velocity. The Examiner was incorrect in this comment. Please find attached hereto a copy of a dictionary which defines a stepper motor as one which rotates in fixed angular steps rather than rotating continuously. Therefore, a stepper motor is simply not one which